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Office (Fax No. (703) 308-6916) on July 8, 2003.

JAMES C. SIMMONS

Name

James C. Simmons

Signature

July 8, 2003

Date of signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:  
Cohen et al

Serial no. 09/110,376

Filed: May 12, 1998

For: METHODS FOR IDENTIFYING OR DIAGNOSING CARCINOMA CELLS WITH  
METASTATIC POTENTIAL BASED ON THE MEASUREMENT OF LYMPHOID  
GENES OR THEIR PRODUCTS IN CARCINOMA CELLS

Examiner: K. Canella

Art Unit: 1642

PETITION UNDER 37 CFR 1.313(b)

Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants hereby petition, pursuant to 37 CFR 1.313(b), for withdrawal of the above-identified application from issue for the consideration of a Request for Continued Examination in compliance with 37 CFR 1.114 (see 37 CFR 1.313(c)(2)). Enclosed herewith, by way of a credit card charge, is the Petition fee (37 CFR 1.17(h)) of \$130.

Also enclosed herewith is the Request for Continued Examination (RCE), including the fee of \$375 at the small entity

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rate, therefor. Applicants claim small entity status.

The issue fee transmittal, Submittal of Formal drawings, and Letter re correction of Title were all mailed to the Patent Office with a Certificate of Mailing on June 26, 2002. Enclosed is a copy of the postcard receipt (note that the Letter re correction of Title is not listed on the postcard receipt). The patent had not issued as of February 26, 2003. On that date a Status Request was mailed to the Patent Office. Enclosed is a copy of the postcard receipt therefor. Applicant still has not heard anything from the Patent Office regarding the status of this application. A check today of the Patent Office website showed that a patent has still not issued on the above-identified application.

The RCE includes an Amendment as well as Information Disclosure Statement which discloses some test results. The testing shows some results which require amendment of the claims to be in accord therewith, i.e., to delete a marker from a group of markers claimed for colon tumor. The Amendment and the Information Disclosure Statement more specifically address the above.

It is therefore respectfully petitioned and requested that the above-identified application be withdrawn from issue so that the RCE can be considered.

Respectfully submitted,

*James C. Simmons*  
James C. Simmons  
Reg. no. 28,474

Enclosures: Petition fee  
Postcard receipt for Issue Fee Transmittal and  
Submittal of Formal Drawings  
Postcard receipt for Status Request  
Request for Continued Examination (RCE) Transmittal  
RCE fee  
Amendment Submitted with RCE  
Information Disclosure Statement Submitted with RCE  
Sheet of test results enclosed with IDS

The Law Office of James C. Simmons  
11 Falmouth Lane  
Williamsville, NY 14221  
Phone (716) 632-7702

The U. S. Patent and Trademark Office datestamp hereon will acknowledge receipt of (1) ISSUE FEE TRANSMITTAL and (2) SUBMITTAL OF FORMAL DRAWINGS in re:

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